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MICHIGAN HOUSE OF REPRESENTATIVES

**JOHN WALSH**  
STATE REPRESENTATIVE

TO: Members of the House Judiciary Committee  
SUBJECT: HB 4970  
DATE: March 10, 2010

Esteemed Colleague,

Historically, many organizations that provide activities for children have limited their liability by requiring parents to sign a waiver/consent form before a minor child can participate in the activities provided. While courts have, from time to time, invalidated a waiver where gross negligence or reckless misconduct on the part of the organization led to the injury of a child, the waiver has generally been enforced to protect against risks inherent in the activity. The validity of this practical tool has, however, been undermined by the Michigan Court of Appeals in August, 2008, when it ruled in *Woodman V. Kera, LLC* ("Woodman") that a parent does not have the right and authority to act in a manner that could be detrimental to their child – specifically, the waiver of liability for injury or loss.

In the world of children's athletics, the Court's decision in *Woodman* could expose profit and non-profit organizations to liability for injuries suffered by a child, even in the absence of gross negligence. While the Court clearly recognized the public benefit afforded by programs and activities for children that might not otherwise be possible as a result of increased liability on the part of sponsoring organizations, its interpretation of Michigan Law resulted in the conclusion that the State's responsibility with regard to children's welfare outweighed the parent's right and authority for their children's care in the absence of legislation to the contrary.

HB 4970 has been introduced to provide the statutory basis for enforcing a parental waiver, as suggested by the Court. The legislation permits the use and enforceability of a parental waiver while preserving a plaintiff's right to pursue relief following the gross negligence or reckless misconduct of the defendant.

Your support of this legislation is greatly appreciated.

Sincerely,

A handwritten signature of John Walsh in cursive script, located at the bottom of the letter.